

§ 1944.155

(d) *Tenant Occupancy records.* (1) For tenants of housing owned by farm borrowers, rent is not charged and employment related occupancy restrictions do apply (reference § 1944.164(h) for additional guidance). The borrower shall have each tenant execute a verification of occupancy and farm labor on exhibit K-1, Verification of Domestic Farm Labor and Occupancy in Rent Free Housing, on initial occupancy of the dwelling unit. The borrower shall retain the properly completed forms and make them available for FmHA or its successor agency under Public Law 103-354 Inspection only for the current tenant(s) and to supplement the annual reporting requirements required in the loan agreement. If the housing is not occupied on a year-round basis, then the report should list the names of the migrants or seasonal farmworkers attached to exhibit K-1.

(2) For tenants of housing when rent is charged and employment restrictions do not apply (reference § 1944.164(h) for additional guidance). The borrower shall be guided by the procedures referenced in paragraph (c) of this section.

(e) *Ineligible occupants.* (1) For housing owned by farm borrowers. Ineligible occupants are immediate relatives of the borrower(s) and anyone who is not employed in domestic farm labor, as defined in § 1944.153 of this subpart. Normally, occupancy of labor housing owned by farm borrowers is restricted to employees of the farmer or is governed by an employment contract with the farmer. Occupancy of housing owned by farm borrowers, regardless of the site (on-farm or in town), may be occupied by ineligible with the permission of the State Director.

(2) *For housing owned by organizations.* Ineligible occupants are defined in exhibit B of subpart C of part 1930 of this chapter.

[56 FR 28473, June 21, 1991, as amended at 57 FR 59904, Dec. 17, 1992]

§ 1944.155 Responsibility for LH processing and servicing.

All LH loan and/or LH grant application processing and servicing is the responsibility of the FmHA or its successor agency under Public Law 103-354

7 CFR Ch. XVIII (1-1-05 Edition)

District Director with redelegation authority for on-farm labor housing loans.

[57 FR 59904, Dec. 17, 1992]

§ 1944.156 General loan/grant processing requirements.

(a) *Timeliness.* All applicants will be informed of a decision regarding their request for assistance within a reasonable timeframe established by RHS. If RHS cannot provide an eligibility determination within a reasonable timeframe, the applicant will be notified when the determination will be made. A request for assistance may be withdrawn at any time by the applicant. RHS may return a request for assistance for failure of the applicant to provide the necessary underwriting information within a reasonable time period established by RHS.

(b) *Unlawful determination.* The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants based on race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program. Department of Agriculture regulations provide that no agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person based on race, color, religion, sex, age, handicap, or national origin under any program or activity administered by such agency, officer, or employee. The Fair Housing Act prohibits discrimination in real estate-related transactions, or in the terms and conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin. If an applicant or borrower believes he or she has been discriminated against for any of these reasons, that person can write the Secretary of Agriculture, Washington, DC 20250. Applicants also cannot be denied a loan because the applicant has in good faith exercised his or her rights under the Consumer Credit Protection Act. If an applicant believes he or she was denied a loan for

this reason, the applicant should contact the Federal Trade Commission, Washington, DC 20580.

(c) *Taxpayer identification.* All applicants must provide their taxpayer identification number. The taxpayer identification number for individuals who are not businesses is their Social Security Number.

[61 FR 59777, Nov. 22, 1996]

§ 1944.157 Eligibility requirements.

(a) *Eligibility of applicant for an LH loan.* To be eligible for an LH loan the applicant must:

(1) Be a farmowner, family farm partnership, family farm corporation, or an association of farmers whose farming operations demonstrate a need for farm labor housing, or an organization, as these terms are defined in §1944.153, which will own the housing and operate it on a nonprofit basis; or a nonprofit limited partnership in which the general partner is a nonprofit entity.

(2) Except for State and local public agencies, or a political subdivision thereof, be unable to provide the necessary housing from their own resources and be unable to obtain the necessary credit from any other source upon terms and conditions they could reasonably be expected to fulfill. If an association of farmers or family farm corporation or partnership, the individual members, individually and jointly, must be unable to provide the necessary housing by utilizing their own resources and be unable, by pledging their personal liability, to obtain other credit that would enable them to provide housing for farm workers at rental rates they can afford to pay. The individual resources of family farm corporation or partnership members with less than a ten percent corporate or partnership interest need not be considered.

The State Director may make an exception to the requirement that an individual farmowner, family farm corporation, family farm partnership or an association be unable to obtain the necessary credit elsewhere when *all* of the following conditions exist:

(i) There is a need in the area for housing for domestic farmworkers *who*

are migrants and that applicant will provide such housing;

(ii) There are no qualified State or political subdivisions or public or private nonprofit organizations currently available or likely to become available within a reasonable period of time that are willing and able to provide the housing; and

(iii) The interest rate for such loans is in accordance with subpart A of part 1810 of this chapter (FmHA Instruction 440.1).

(3) Provide from its own resources the borrower contribution required by §1944.160 and have sufficient initial operating capital to pay costs such as property and liability insurance premiums, fidelity bond premiums if required, utility hookup deposits, maintenance equipment, movable furnishings and equipment, printing lease forms, and other initial expenses. LH loans made to nonprofit organizations and to State or local public agencies or political subdivisions thereof may include up to 2 percent of the development cost for initial operating expenses.

(4) After the loan is made, have income sufficient to pay operating expenses, make necessary capital replacements, make the payments on the loan and other authorized debts, and accumulate reasonable reserves as required.

(5) Possess the legal and actual capacity, character, ability, and experience to carry out the undertakings and obligations required for the loan, including the obligation to maintain and operate the housing and related facilities for the purpose for which the loan is made. Organizations operating in more than one local area will be required to indicate their ability to provide local management and supervision of the day-to-day operation of the housing project.

(6) Intend to use the housing for labor to be used in the farming operations of the applicant or farming operations of its members if an individual farmowner, family farm corporation or partnership, or an association of farmers.

(7) Own the housing and related land or become the owner when the loan is